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BEFORE THE ARIZONA CORPORATION C

COMMISSIONERS

Arizona Corporation Commission

JEFF HATCH-MILLER, CHAIRMAN DOCKETED

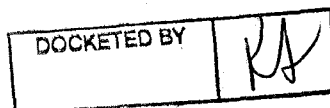
WILLIAM A. MUNDELL

MARC SPITZER

MIKE GLEASON

KRISTIN K. MAYES

MAY 10 2005



IN THE MATTER OF THE FORMAL  
COMPLAINT OF ACCIPITER  
COMMUNICATIONS, INC. AGAINST  
VISTANCIA COMMUNICATIONS, L.L.C.,  
SHEA SUNBELT PLEASANT POINT, L.L.C.  
AND COX ARIZONA TELCOM, LLC.

Docket No. T-03471A-05-0064

NOTICE OF FILING

The Arizona Corporation Commission Staff ("Staff") hereby gives notice of serving its  
Second and Third Sets of Data Requests on Cox Arizona Telcom in this matter.

RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of May, 2005.

By

Maureen Scott  
Attorney, Legal Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, AZ 85007  
Telephone (602) 542-3402

Original and 13 copies of the foregoing  
filed this 10<sup>TH</sup> day of May, 2005,  
with:

Docket Control  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, AZ 85007

AZ CORP COMMISSION  
DOCUMENT CONTROL

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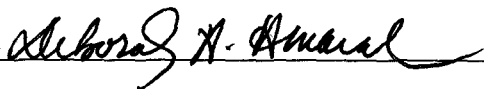
RECEIVED

1 Copy of the foregoing was mailed this  
10<sup>th</sup> day of May, 2005, to:

2 Martin A. Aronson, Esq.  
3 William A. Cleaveland, Esq.  
Morrill & Aronson  
4 One East Camelback Road, Suite 340  
Phoenix, AZ 85012-1648  
5 Counsel for Accipiter Communications, Inc.

6 Charles V. Gowder, President  
7 Accipiter Communications, Inc.  
2238 Loan Cactus Drive, Suite 100  
8 Phoenix, AZ 85027

9 Michael W. Patten, Esq.  
10 Roshka Heyman & DeWulf, P.L.C  
One Arizona Center  
11 400 East Van Buren Street, Suite 800  
Phoenix, AZ 85004  
12 Counsel for Cox Arizona Telcom

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**COMMISSIONERS**  
JEFF HATCH-MILLER- CHAIRMAN  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES



BRIAN C. MCNEIL  
Executive Secretary

**ARIZONA CORPORATION COMMISSION**

May 6, 2005

*By email and United States Mail*  
[mpatten@rhd-law.com](mailto:mpatten@rhd-law.com)

Michael W. Patten, Esq.  
ROSHKA HEYMAN & DEWULF, PLC  
400 East Van Buren Street, Suite 800  
Phoenix, Arizona 85004

RE: Staff's **Second** Set of Data Requests to Cox Arizona Telcom, LLC regarding the Formal Complaint of Accipiter Communications, Inc. Against Vistancia Communications, LLC, Shea Sunbelt Pleasant Point, LLC and Cox Arizona Telcom, LLC.  
Docket No.: T-03471A-05-0064

Dear Mr. Patten:

Please treat this as Staff's **Second** Set of Data Requests to Cox Arizona Telcom, LLC, in the above-referenced matter.

For purposes of this data request set, the words "Cox", "you" and "your" refer to Cox Arizona Telcom, and any representative, including every person and/or entity acting with, under the control of, or on behalf of Cox Arizona Telcom.

For each answer, please identify by name, title, and address each person providing information that forms the basis for the response provided.

These data requests are continuing, and your answers or any documents supplied in response to these data requests should be supplemented with any additional information or documents that come to your attention after you have provided your initial responses.

Please respond within **ten** calendar days of your receipt of the copy of this letter. ***Please provide one complete set of all responses, in both hard copy and electronic format to each of the following addressees:***

- (1) Constance Fitzsimmons, Paralegal, Arizona Corporation Commission, 1200 W. Washington Street, Phoenix, AZ 85007; [cfitzsimmons@cc.state.az.us](mailto:cfitzsimmons@cc.state.az.us)
- (2) Richard Boyles, Engineering Division, Arizona Corporation Commission, 1200 W. Washington Street, Phoenix, AZ 85007; [rboyles@cc.state.az.us](mailto:rboyles@cc.state.az.us)

Sincerely,

Maureen A. Scott  
Attorney, Legal Division  
(602) 542-6022

MAS:daa  
Enclosures

cc: Mark A. DiNunzio, Cox Arizona Telcom, [Mark.dinunzio@cox.com](mailto:Mark.dinunzio@cox.com)

**ARIZONA CORPORATION COMMISSION STAFF'S  
SECOND SET OF DATA REQUESTS TO  
COX ARIZONA TELCOM, LLC  
Docket No.: T-03471A-05-0064  
May 6, 2005**

- STF 2.1      Please indicate whether the rates charged for telephone service by Cox Arizona Telcom in the Vistancia Development are included in the dues or payments made by each customer to the Development, its association, or Vistancia Communications; or whether Cox Arizona Telcom bills each customer in the Vistancia Development for services provided.
- STF 2.2      If Cox Arizona Telcom bills each customer for service in the Vistancia development, please provide a copy of a customer's bill. You may redact customer specific information.
- STF 2.3      Please indicate the names of the entities that Vistancia customers may make payment to for the telephone services provided.
- STF 2.4      If a Vistancia customer has a complaint about the telephone service they receive, which entity first receives the complaint, Shea Sunbelt, the Homeowner's association, Vistancia Communications, or Cox Arizona Telcom?
- STF 2.5      If a Cox Arizona Telecom customer in Vistancia has a complaint about the telephone service they receive, who are they instructed to contact? Please provide all written materials provided to Cox Arizona Telecom customers in Vistancia regarding actions to be taken if they have complaints concerning their telephone services.
- STF 2.6      Please indicate whether Cox Arizona Telcom is required to report complaints received to either Vistancia Communications or Shea Sunbelt or any Association for the Development.
- STF 2.7      Please indicate whether CoxCom constructed all of the facilities used to provide telecommunications services by Cox Arizona Telcom in the Vistancia development and whether all of the necessary facilities have been put in place.
- STF 2.8      Please indicate what entities had input into the facilities to be provided and the construction of those facilities, including whether any of the following had input: Shea Sunbelt, Vistancia Communications, Cox Arizona Telcom.
- STF 2.9      Please provide a summary of any conversations and/or meetings between Shea Sunbelt, Vistancia Communications and CoxCom or Cox Arizona

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Telcom regarding the provision of telecommunications service (local and long distance service) to the Vistancia development.

- STF 2.11      Which entity makes decisions regarding the placement or need for additional facilities to provide telecommunications services, Shea Sunbelt Vistancia Communications, CoxCom or Cox Arizona Telcom?
- STF 2.12      On page 2 of its Motion to Dismiss, Cox Arizona Telcom states that it has not refused to interconnect with Accipiter or to resell its service to Accipiter. If Cox Arizona Telcom received a request to interconnect with Accipiter or to resell its service to Accipiter, under what circumstances would Cox Arizona Telcom grant the request? What terms and conditions would Cox Arizona Telcom insist upon before interconnecting with Accipiter or another provider or before reselling its service to Accipiter or another provider?
- STF 2.13      On page 3 of its Motion to Dismiss, Cox Arizona Telcom states that it is prepared to comply with Decision No. 60825, page 3, para. 18(g) which states: "...in areas where Cox is the sole provider of local exchange service facilities, Cox provide customers with access to alternative providers of service pursuant to the provisions of A.A.C. R14-2-112 and any subsequent rules adopted by the Commission on interconnection and unbundling. If Cox received such a request, how long would it take for Cox to honor it? Is Cox obligated to confer with Vistancia Communications or Shea Sunbelt before allowing another company to interconnect with it or have access to its facilities.
- STF 2.14      On page 3 of its Motion to Dismiss, Cox Arizona Telcom states that it is willing to comply with Decision No. 60825 but that it has no unbundling obligation under federal law because it is a competitive service provider and that the Commission has no authority to impose such a requirement. Is Cox through this statement now saying that it will not comply with Decision 60825, page 3, para. 18(g). Please explain this apparent discrepancy in Cox Arizona Telcom's Motion to Dismiss.
- STF 2.15      At page 4 of its Motion to Dismiss, Cox Arizona Telcom states that the property owner is not denying access; but that Accipiter simply does not like the terms of access required by the property owner. Please indicate whether Cox Arizona Telcom believes that an access fee may be so prohibitive that to would effectively amount to a denial of access for providers that could not afford the fee.

**ARIZONA CORPORATION COMMISSION STAFF'S  
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May 6, 2005**

- STF 2.16      How many license fees or payments has Cox Arizona Telcom or its affiliates made on its behalf to Shea Sunbelt and/or Vistancia Communications as a result of the provision of local and long distance service in the Vistancia development under Schedule 3.01 of the NELA. Please list each payment individually, the date the payment was made and which to entity the payment was made.
- STF 2.17      If Cox Arizona Telcom has not itself executed any of the agreements with Shea Sunbelt and/or Vistancia Communications, but rather CoxCom has, please indicate why CoxCom is not obligated to provide local and long distance telephone service under the various agreements and why CoxCom should not be required to obtain a CC&N from the Commission?
- STF 2.18      Please describe all ongoing activities relating to the provision of local and long distance service, that Cox Arizona Telcom, or another Cox affiliate on its behalf, are required to undertake under the agreements and the entity Cox Arizona Telcom, or another Cox affiliate on its behalf, work with or report to.
- STF 2.19      Please indicate any and all other fees paid by Cox Arizona Telcom, or CoxCom on its behalf, to Shea Sunbelt and/or Vistancia Communications and what those fees cover.
- STF 2.20      Please indicate any and all conditions that CoxCom had to meet on Cox Arizona Telcom's behalf in order to be a Mandatory Communications Provider of local and long distance telephone service.
- STF 2.21      Please indicate whether Cox Arizona Telcom or any of its affiliates paid the access fees specified in the NELA-CMA and the NELA-PAA. Please indicate the date such fees were paid and the amount paid.
- STF 2.22      Please indicate whether any representatives of Cox Arizona Telcom or its affiliates have been in contact with representatives from Shea Sunbelt and/or Vistancia regarding the Accipiter complaint and the proceedings before the Arizona Corporation Commission, the Department of Justice and any other agency of the State of Arizona or Federal government.
- STF 2.23      Please confirm that Sherry Tocco is employed by Cox Arizona Telcom or CoxCom. Please indicate what her responsibilities are with respect to the provision of local and long distance service in the Vistancia community. Please indicate whether any portion of her salary or her commissions are paid by Shea Sunbelt or Vistancia Communications.

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SECOND SET OF DATA REQUESTS TO  
COX ARIZONA TELCOM, LLC  
Docket No.: T-03471A-05-0064  
May 6, 2005**

- STF 2.24      Please provide copies of all materials provided by Cox Arizona Telcom or CoxCom or any other Cox affiliate to the United States Department of Justice relating to Cox or CoxCom's service or activities in Vistancia or their relationship with Shea Sunbelt, Vistancia Communications or any other Shea affiliate.
- STF 2.25      Please provide copies of all materials provided by Cox Arizona Telcom or CoxCom or any other Cox affiliate to the Arizona Office of the Attorney General relating to Cox or CoxCom's service or activities in Vistancia or their relationship with Shea Sunbelt, Vistancia Communications or any other Shea affiliate

**COMMISSIONERS**  
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MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES



BRIAN C. MCNEIL  
Executive Secretary

**ARIZONA CORPORATION COMMISSION**

May 9, 2005

*By email and United States Mail*  
[mpatten@rhd-law.com](mailto:mpatten@rhd-law.com)

Michael W. Patten, Esq.  
ROSHKA HEYMAN & DEWULF, PLC  
400 East Van Buren Street, Suite 800  
Phoenix, Arizona 85004

RE: Staff's **Third** Set of Data Requests to Cox Arizona Telcom, LLC regarding the Formal Complaint of Accipiter Communications, Inc. Against Vistancia Communications, LLC, Shea Sunbelt Pleasant Point, LLC and Cox Arizona Telcom, LLC.  
Docket No.: T-03471A-05-0064

Dear Mr. Patten:

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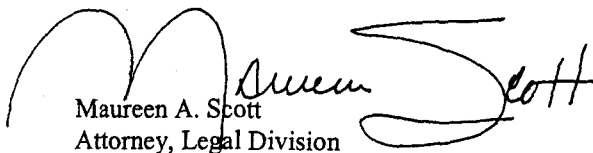
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- (2) Richard Boyles, Engineering Division, Arizona Corporation Commission, 1200 W. Washington Street, Phoenix, AZ 85007; [rboyles@cc.state.az.us](mailto:rboyles@cc.state.az.us)

Sincerely,

  
Maureen A. Scott  
Attorney, Legal Division  
(602) 542-6022

MAS:daa  
Enclosures  
cc: Mark A. DiNunzio, Cox Arizona Telcom, [Mark.dinunzio@cox.com](mailto:Mark.dinunzio@cox.com)

**ARIZONA CORPORATION COMMISSION STAFF'S  
THIRD SET OF DATA REQUESTS TO  
COX ARIZONA TELCOM, LLC  
Docket No.: T-03471A-05-0064  
May 9, 2005**

STF 3.1      Please provide the total cost of communications facilities installed at the Vistancia development and the portion of the investment related to the provision of local and long distance service.